

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISCOVERY OF ALABAMA
NORTHEASTERN DIVISION**

GLENDY LOCKHART and)
STRAIGHTLINE DRYWALL &)
ACOUSTICAL, LLC,)
)
Plaintiffs,)
)
v.) **Case No.: 5:16-cv-1699-MHH**
)
ANA FRANKLIN; CHAD SMITH;)
ROBERT WILSON; BLAKE)
ROBINSON,)
)
Defendants.)

**DEFENDANTS' MOTION TO DISMISS OR IN THE ALTERNATIVE
MOTION TO STAY**

COME NOW the Defendants, Sheriff Ana Franklin, Deputy Robert Wilson, and Deputy Blake Robinson, Defendants in the above-styled action and request this Honorable Court dismiss Plaintiff's Amended Complaint (Doc. 22) or in the alternative, request that the case be stayed until the resolution of the criminal investigation into the underlying conduct. In support of this Motion, Defendants assert that all claims are due to be dismissed against them based on the following:

1. Plaintiffs' First Amendment claims (Count I) cannot be sustained as a matter of law.
2. Plaintiffs' Fourth Amendment claims (Count I) are due to be dismissed because the Defendants enjoy qualified immunity.

3. Plaintiff's Fifth Amendment claims cannot be sustained as a matter of law.

4. Counts II, III, and V (state-law claims) are due to dismissed because the Defendants enjoy state absolute immunity.

5. All official capacity claims must be dismissed as the Defendants enjoy absolute immunity.

6. Plaintiffs lack standing to maintain remaining equitable relief claims.

7. Plaintiffs' claims under 18 U.S.C. § 2511 (Count IV) cannot be sustained as a matter of law.

8. The entire case should be stayed because of the on-going criminal investigation.

Respectfully submitted this the 2nd day of December 2016

s/J. Randall McNeill

J. RANDALL MCNEILL (ASB-4841-E29J)

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CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will provide notice to the following CM/ECF participants:

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s/ J. Randall McNeill
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